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CHAPTER 244

COPYRIGHT (BROADCASTING OF GRAMOPHONE RECORDS)

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*Act No. 25 of 1972*

AN ACT TO CLARIFY THE LAW RELATING TO COPYRIGHT IN  
CONNECTION WITH THE BROADCASTING OF GRAMOPHONE  
RECORDS, ETC.

[22nd December, 1972]

*Short title*

1. This Act may be cited as the Copyright (Broadcasting of Gramophone  
Records) Act.

*Copyright in radio broadcasts of records, etc.*

2. Notwithstanding the provisions of any other written law—
- (a) the manufacturers' and performers' copyright in a musical recording on gramophone records, tapes or other mechanical contrivance, shall not be infringed if such a recording is broadcast, by means of radio or television, by the Fiji Broadcasting Commission;
  - (b) where a radio or television broadcast is made and a person by the reception of that broadcast causes a musical work or recording to be heard in public, he shall not thereby infringe the copyright in that musical work or recording.

*Controlled by Ministry of Information*

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CHAPTER 244

COPYRIGHT ACT, 1956

COPYRIGHT (FIJI) ORDER, 1961

*Made by Her Majesty with the advice of the Privy Council*

1. The provisions of the Copyright Act, 1956, specified in Part I of the First Schedule shall extend to Fiji subject to the modifications specified in Part II of that Schedule.

2. The Copyright (International Conventions) Order, 1957, as amended, the Copyright (International Conventions) (Argentina) Order, 1958, the Copyright (International Organizations) Order, 1957, as amended, and the Copyright (Broadcasting Organizations) Order, 1959, (being Orders in Council made under Part V of the said Act) shall extend to Fiji subject to the relevant modifications specified in the Second Schedule.

3. The Interpretation Act, 1889, shall apply to the interpretation of this Order as it applies to the interpretation of an Act of Parliament.

4. This Order may be cited as the Copyright (Fiji) Order, 1961, and shall come into operation on the 1st day of February, 1961.

W. G. AGNEW.

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FIRST SCHEDULE

PART I

*Provisions of the Copyright Act, 1956, extended to Fiji*

All the provisions of the Act, as amended by the Dramatic and Musical Performers Protection Act, 1958, and the Films Act, 1960, except sections 23 to 30, sections 32, 34, 35, 42 and 44 and the Fourth and Fifth Schedules.

PART II

*Modifications to the provisions extended*

The provisions mentioned in the first column in the following table shall be modified in the manner specified in the second column.

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Provision	Modification
Section 7.....	For the references to the Board of Trade there shall be substituted references to the Governor in Council.*
Section 8.....	In subsections (1) and (10), for "the United Kingdom" there shall be substituted "Fiji"; for subsection (3) there shall be substituted the following:— "(3) If at any time the Board of Trade by order made under this subsection in its operation in the law of the United Kingdom prescribed for the purposes of this section either generally or in relation to any one or more classes of records, any different rate of, or minimum amount of, royalty the provisions of this section shall be construed subject to the provisions of any such order as is for the time being in force."; in subsection (4), for head (a) there shall be substituted the following:— "(a) the minimum amount of royalty shall be three farthings in respect of each of those works; and"; in subsection (11), for the references to the Board of Trade there shall be substituted references to the Governor in Council*.
Section 10.....	For subsection (5) there shall be substituted the following:— "(5) For the purposes of this section a design shall be taken as being applied industrially if it is applied in the circumstances for the time being prescribed by rules made by the Board of Trade under section thirty-six of the Registered Designs Act, 1949, as extended by this section in the law of the United Kingdom."
Section 12.....	In subsection (6), for "the United Kingdom" there shall be substituted "Fiji".
Section 13.....	For subsection (3) there shall be substituted the following:— "(3) Copyright subsisting in a cinematograph film by virtue of this section shall continue to subsist until the film is published and thereafter until the end of the period of fifty years from the end of the calendar year which includes the date of its first publication and shall then expire."; in subsection (8), for "any such film as is mentioned in paragraph (a) of subsection (1) of section thirty-eight of the Films Act, 1960 (which relates to newsreels)" there shall be substituted "any film consisting wholly or mainly of photographs which, at the time they were taken, were means of communicating news"; subsection (11) shall be omitted.
Section 15.....	In subsection (4), for "Board of Trade" there shall be substituted "Governor in Council"*.
Section 17.....	There shall be inserted, after subsection (4), the following subsection:— "(4A) No action in respect of an infringement of copyright shall be commenced after the expiration of a period of more than six years from the date at which the right of action accrued."; subsection (6) shall be omitted.
Section 18.....	In subsection (1), for the proviso there shall be substituted the following:— "Provided that where a cause of action in respect of the conversion or detention by any person of any such copy or plate has accrued under this subsection to the owner of the copyright thereto and, before he recovers possession of such copy or plate, a further conversion or detention takes place, the owner of the copyright shall not be entitled to any rights or remedies under this subsection in respect of such further conversion or detention after the expiration of six years from the accrual of the cause of action in respect of the original conversion or detention.";

\* For "Governor in Council" read "Minister" (Section 5 Fiji Independence Order 1970)

Provision	Modification
Section 21 .....	<p>subsection (4) shall be omitted.</p> <p>In subsections (1) and (6), for "the United Kingdom" there shall be substituted "Fiji";</p> <p>in subsections (7) and (8), for "summary conviction" there shall be substituted "conviction before a Resident Magistrate's Court";</p> <p>for subsection (10) there shall be substituted the following:—</p> <p style="padding-left: 40px;">“(10) An appeal shall lie to the Supreme Court from any order made under subsection (a) by a court of summary jurisdiction.”</p>
Section 22 .....	<p>In subsection (1), for "the Commissioners of Customs and Excise (in this section referred to as "the Commissioners")" there shall be substituted "the Comptroller of Customs and Excise" and for subsequent references in the section to the Commissioners there shall be substituted references to the said Comptroller;</p> <p>in subsections (2) and (3), for "the United Kingdom" there shall be substituted "Fiji";</p> <p>in subsection (4), after "regulations", where that word first occurs, there shall be inserted "subject to the approval of the Governor in Council";</p> <p>for subsection (6), there shall be substituted the following:—</p> <p style="padding-left: 40px;">“(6) Any fees paid in pursuance of regulations made under this section shall be treated as monies collected on account of the general revenue.”;</p> <p>in subsection (7), for the references to the Customs and Excise Act, 1952, there shall be substituted references to the Customs Act in the law of Fiji (Cap. 196.)</p>
Section 31 .....	<p>Subsection (1) and (2) shall be omitted;</p> <p>in subsection (4), for "the United Kingdom" there shall be substituted "Fiji" and for "in a country" there shall be substituted "in the United Kingdom or in any country other than Fiji".</p>
Section 33 .....	<p>For subsection (1) there shall be substituted the following:—</p> <p style="padding-left: 40px;">“(1) An organisation to which this section applies is one declared to be such by an Order in Council made under this section as part of the law of the United Kingdom which has been extended, in relation to that organisation, to Fiji.”.</p>
Section 37 .....	<p>Subsection (4) shall be omitted.</p>
Section 39 .....	<p>In subsection (8), for "section three of the Crown Proceedings Act, 1947" there shall be substituted "section five of the Crown Proceedings Act.”;</p> <p style="text-align: right;">(Cap. 24.)</p>
Section 40 .....	<p>Subsection (3) shall be omitted;</p> <p>in subsection (4), for "either of the two last preceding subsections" there shall be substituted "subsection (2)" and "or the programme to be transmitted, as the case may be" shall be omitted;</p> <p>in subsection (5), the references to a work shall be omitted.</p>
Section 41 .....	<p>For subsection (7) there shall be substituted the following:—</p> <p style="padding-left: 40px;">“(7) In this section—</p> <p style="padding-left: 80px;">“school” has the same meaning as in the Education Act (Cap. 262.);</p> <p style="padding-left: 80px;">and</p> <p style="padding-left: 80px;">“duplicating process” means any process involving the use of an appliance for producing multiple copies.”.</p>
Section 43 .....	<p>In subsection (2), (4) and (6), for "the United Kingdom" there shall be substituted "Fiji".</p>

Provision	Modification									
Section 46.....	Subsection (1) shall be omitted; in subsection (2), "(including any enactment of the Parliament of Northern Ireland)" shall be omitted.									
Section 47.....	The whole section except subsection (4) shall be omitted; in subsection (4), "or rules" shall be omitted.									
Section 48.....	In subsection (4) for "the United Kingdom" there shall be substituted "Fiji".									
Section 49.....	In subsection (2), for "the United Kingdom" there shall be substituted "Fiji".									
Section 51.....	For subsection (2) there shall be substituted the following:— <p style="margin-left: 40px;">“(2) (a) Any provision of this Act empowering the Governor in Council or the Comptroller of Customs and Excise to make regulations shall come into operation on the commencement of the Order in Council extending that provision to Fiji.</p> <p style="margin-left: 40px;">(b) All the other provisions of this Act shall come into operation on the 1st day of June, 1961”;</p>									
First Schedule .....	subsection (3) shall be omitted. In paragraph 2, for "section seven of the Act of 1949" there shall be substituted "section 2 of the United Kingdom Designs (Protection) Act in the law of Fiji (Cap. 242)".									
Seventh Schedule .....	Paragraphs 25, 26, 40 and 41 shall be omitted;									
Ninth Schedule .....	in paragraph 46, for "the United Kingdom" there shall be substituted "Fiji". For the table therein set out there shall be substituted the following:—									
ENACTMENTS REPEALED										
	<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 25%;">Session and chapter</th> <th style="width: 50%;">Short title</th> <th style="width: 25%;">Extent of repeal</th> </tr> </thead> <tbody> <tr> <td>1 &amp; 2 Geo. 5 c. 46.</td> <td>The Copyright Act, 1911.</td> <td>The whole Act.</td> </tr> <tr> <td>18 &amp; 19 Geo. 5 c. lii.</td> <td>The Copyright Order Confirmation (Mechanical Instruments: Royalties) Act, 1928.</td> <td>The whole Act.</td> </tr> </tbody> </table>	Session and chapter	Short title	Extent of repeal	1 & 2 Geo. 5 c. 46.	The Copyright Act, 1911.	The whole Act.	18 & 19 Geo. 5 c. lii.	The Copyright Order Confirmation (Mechanical Instruments: Royalties) Act, 1928.	The whole Act.
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18 & 19 Geo. 5 c. lii.	The Copyright Order Confirmation (Mechanical Instruments: Royalties) Act, 1928.	The whole Act.								

## SECOND SCHEDULE

### *Modifications to the Orders in Council extended by Article 2*

1. Modification to all the Orders in Council:—  
Any reference in any of the Orders to its commencement shall be deemed to be a reference to the 1st day of June, 1961.
2. Modifications to the Copyright (International Conventions) Order, 1957:—
  - (1) In Article 1, for "the United Kingdom" there shall be substituted "Fiji".
  - (2) In Article 2, for the reference to the making of the Order there shall be substituted a reference to its extension to Fiji.

- (3) In Article 3, for "the United Kingdom" there shall be substituted "Fiji".
- (4) In the Fourth Schedule, paragraph 5 shall be omitted.
3. Modifications to the Copyright (International Conventions) (Argentina) Order, 1958:—
- In the Schedule, paragraphs 1 and 2 shall be omitted.
4. Modifications to the Copyright (Broadcasting Organisations) Order, 1959:—
- (1) For Part I of the Schedule (which sets out the provisions applied by the Order) there shall be substituted the following:—
- "Such provisions of the Act relating to copyright in sound and television broadcasts as may be extended to Fiji under subsection (1) of section thirty-one of the Act, with such modifications as may have been made thereto on extension".
- (2) In Part II of the Schedule, paragraphs 2 and 3 shall be omitted.
- (3) In Part III of the Schedule (which sets out the persons in relation to whose broadcasts the provisions of the Act are applied) there shall be added the following paragraph:—
- "2. The Fiji Broadcasting Commission".

#### COPYRIGHT (BROADCASTING ORGANIZATIONS) ORDER, 1961

*Made by Her Majesty with the advice of the Privy Council*

1. The provisions of the Act relating to television or sound broadcasts specified in the first column of the Schedule shall apply, subject to the modifications correspondingly specified in the second column, in relation to the operation of wireless telegraphy apparatus by way of the emission (as opposed to the reception) of electromagnetic energy by all persons or classes of persons lawfully authorised to broadcast to the public in any country to which section 14 of the Act extends by virtue of an Order in Council made in pursuance of the powers conferred by section 31 of the Act (in this Order referred to as "lawfully authorised broadcasting authorities") for all purposes as they apply to television broadcasts, or, as the case may be, to sound broadcasts made by the Corporation or the Authority.

2. This Order shall extend to the Isle of Man, Sarawak, Gibraltar and Fiji.

3. The Interpretation Act, 1889, shall apply to the interpretation of this Order as it applies to the interpretation of an Act of Parliament and as if this Order and the Order hereby revoked were Acts of Parliament.

4. The Order may be cited as the Copyright (Broadcasting Organizations) Order, 1961, and shall come into operation on the 1st day of January, 1962.

W. G. AGNEW

## SCHEDULE

Provisions applied	Modification
Section 14, section 40 and subsection (4) of section 48.	For references to the Corporation and the Authority there shall be substituted references to lawfully authorised broadcasting authorities; subsection (3) of section 40 shall be omitted; in subsection (4) of section 40, for "either of the last preceding subsections" there shall be substituted "subsection (2)", and there shall be omitted "or the programme to be transmitted, as the case may be"; in subsection (5) of section 40, references to a work shall be omitted.
Seventh Schedule, paragraph 18.	After "subsist" there shall be inserted "in any country", and for "commencement of that section" there shall be substituted "date on which that section was extended to that country or the date on which that section was extended to the country in which the broadcast was made, whichever is the later".
Seventh Schedule, paragraph 18.	At the beginning there shall be inserted "in any country,", and for "commencement of that section" there shall be substituted "date on which that section was extended to that country or the date on which that section was extended to the country in which the previous broadcast was made whichever is the later".

SECTION 7—COPYRIGHT (NOTICE OF PUBLICATION)  
REGULATIONS*Regulations 26th April, 1961 [in force 1st June, 1961]**Made by the Governor in Council**Short title*

1. These Regulations may be cited as the Copyright (Notice of Publication) Regulations.

*Interpretation*

2. In these Regulations—

"the Act" means the Copyright Act, 1956, as applied to Fiji by the Copyright (Fiji) Order, 1961, and

"old work" and "new work" have the meanings assigned to those expressions in subsection (7) of section 7 of the Act.

*Manner of giving notice of new publication*

3. (a) Notice of an intended publication of a new work for the purposes of subsection (7) of section 7 of the Act shall be given by inserting an advertisement

twice in a newspaper circulating in Fiji which shall appear on the first occasion not less than three months, and on the second not less than two months, before the intended date of publication of such work, with an interval of not less than one month between the two occasions.

(b) Such notice shall be signed by or on behalf of the person giving it and shall include the following particulars:—

- (i) the name and address of the person intending to publish and a statement of his intention to publish;
- (ii) the title (if any) and a description of the old work and the date or estimated date of making;
- (iii) the name of the author of the old work, if known to the person intending to publish;
- (iv) the name and address of the library, museum or institution in which the manuscript or a copy of the old work is kept;
- (v) the name of the person from whom the library, museum or institution in which the manuscript or a copy of the old work is kept acquired it or a statement that the person intending to publish has failed after reasonable inquiries to discover the name of that person;
- (vi) an invitation to any person claiming to be the owner of the copyright in the old work to give notice of his claim to the person intending to publish.

#### SECTIONS 7 AND 15—COPYRIGHT (LIBRARIES) REGULATIONS

Regulations 26th April, 1961  
[in force 1st June, 1961.]

*Made by the Governor in Council*

*Short title*

1. These Regulations may be cited as the Copyright (Libraries) Regulations.

*Interpretation*

2. In these Regulations—  
“the Act” means the Copyright Act, 1956, as applied to Fiji by the Copyright (Fiji) Order, 1961, and  
“work” means a published literary, dramatic or musical work.

*Prescribed classes of libraries*

3. (a) Each of the classes of library specified in the First Schedule shall be a class prescribed for the purposes of subsection (1) and (3) of section 7 of the Act:  
Provided that the provisions of this paragraph shall not apply to any library established or conducted for profit.
- (b) Each of the classes of library specified in the First or Second Schedule shall be a class prescribed for the purposes of subsection (5) of section 7 of the Act and for the purposes of paragraph (a) of that subsection



(which relates to the librarian to whom a copy is supplied), any class of library so specified shall, where appropriate, be deemed to include any library of a similar class situated outside Fiji.

- (c) The provisions of paragraph (b) shall apply to any library of a class so specified, whether established or conducted for profit or not.
- (d) Each of the classes of library specified in the First or Second Schedule shall be a class prescribed for the purposes of subsection (4) of section 15 of the Act.

*Prescribed conditions relating to copies of articles in periodical publications and copies of parts of other works*

4. The following conditions shall be conditions prescribed for the purposes of subsection (1) and (3) of section 7 of the Act (which relate, respectively, to copies of articles in periodical publications and copies of parts of other works):—

- (a) no copy of any work or any part of a work shall be made for or supplied to any person unless he has delivered to the librarian concerned, or to some person appointed by the librarian for that purpose, a declaration and undertaking in writing in relation to that work or part, substantially in accordance with the form set out in the Third Schedule and signed in the manner therein indicated;
- (b) for the purposes of subsection (1) (which relates to copies of articles in periodical publications) no copy extending to more than one article in any one publication shall be made;
- (c) for the purposes of subsection (3) (which relates to copies of parts of other works) no copy extending to more than a reasonable proportion of a work shall be made;
- (d) persons to whom copies are supplied shall be required to pay for such copies a sum not less than the cost (including a contribution to the general expenses of the library) attributable to their production.

*Prescribed conditions relating to the making and supplying of copies of any works or parts of works to librarians*

5. The following conditions shall be the conditions prescribed for the purposes of subsection (5) of section 7 of the Act, (which relates to the making and supplying of copies of any works or parts of works to librarians):—

- (a) no copy of a work or a part of a work shall be made for or supplied to the librarian of any library, if a copy of that work or that part has already been supplied to any person as a librarian of that library, unless the librarian by or on behalf of whom the copy is made is satisfied that the copy already supplied has been lost, destroyed or damaged;
- (b) librarians to whom copies are supplied shall be required to pay for such copies a sum not less than the cost (including a contribution to the general expenses of the library) attributable to their production;
- (c) no copy shall be supplied to the librarian of a library that is established or conducted for profit.

*Librarian not authorised to make or supply copies in certain circumstances*

6. Nothing in the preceding regulations shall be taken to authorise the librarian of any library to make or supply a copy of any work or part of a work (other than an article in a periodical publication) for or to any other person (whether that person is the librarian of another library or not) if at the time when the copy is made the librarian knows the name and address of a person entitled to authorise the making of the copy or could by reasonable inquiry ascertain the name and address of such a person.

*Typographical arrangements of published editions of works*

7.—(1) The provisions of paragraph (2) shall be the conditions prescribed for the purposes of subsection (4) of section 15 of the Act (which relates to reproductions of the typographical arrangements of published editions of works).

(2) A reproduction of the typographical arrangement of a published edition of a work or a part thereof may be made or supplied in pursuance of subsection (4) of section 15 only in the circumstances and upon the conditions in and upon which a copy of that work or part may, by virtue of the provisions of Part I of the Act, be made or supplied without infringing the copyright in that work under Part I:

Provided that for the purposes of subsection (4) of section 15 of the Act a reproduction of the typographical arrangement of a published edition of a work may be made without infringing the copyright in the published edition notwithstanding that the librarian by or on behalf of whom the reproduction is made knows, at the time it is made, the name and address of a person who is entitled to authorise the making of such a copy or such a reproduction or could by reasonable inquiry ascertain the name and address of such a person.

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FIRST SCHEDULE

- I. Any library to which section 15 of the Copyright Act, 1911, applies.
- II. Any library of a school (as defined by section 41 (7) of the Act), and any library of an establishment for further or adult education.
- III. Any library administered by a local authority.
- IV. Any library of Parliament or library administered as part of a Government Department.
- V. Any library conducted for, or administered by any establishment or organisation conducted for, the purpose of facilitating or encouraging the study of all or any of the following:—religion, philosophy, science (including any natural or social science), technology, medicine, history, literature, languages, education, bibliography, fine arts, music or law.

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SECOND SCHEDULE

Any library which makes works in its custody available to the public free of charge.

## THIRD SCHEDULE

## FORM OF DECLARATION AND UNDERTAKING

To

The Librarian of  
the

Library

(Address)

1. I [ ] of [ ]  
hereby request you to make and supply to me \*[a copy of (particulars of article)]  
\*[a copy of (particulars of work of which a part is required to be supplied and  
particulars of that part)], which I require for the purposes of research or private  
study.

2. I have not previously been supplied with a copy of \*[the said article] \*[the  
said part of the said work] by any librarian.

3. I undertake that if a copy is supplied to me in compliance with the request  
made above, I will not use it except for the purposes of research or private study.

Signature .....

Date .....

[*Note.*—This must be the personal signature of the person making the request.  
A stamped or typewritten signature, or the signature of an agent is NOT sufficient.]

SECTION 8—COPYRIGHT ROYALTY SYSTEM (RECORDS) REGULATI-  
ONS

Regulations 26th April, 1961 [in force 1st June, 1961]

Made by the Governor in Council

*Short title*

1. These Regulations may be cited as the Copyright Royalty System (Records)  
Regulations.

*Interpretation*

2. In these Regulations “the Act” means the Copyright Act, 1956, as applied  
to Fiji by the Copyright (Fiji) Order, 1961.

*Notice required by section 8 of Copyright Act, 1956*

3.—(1) The notice required by subsections (1) and (5) of section 8 of the Act  
shall contain the following particulars:—

- (a) the name and address of the person by whom the notice is given,  
hereinafter called “the manufacturer”;
- (b) the name of the work to which the notice refers, hereinafter called “the  
work”, a description sufficient to identify it and the name of the  
author or publisher;

\*Delete whichever is inappropriate.

- (c) a statement that the manufacturer intends to make records of the work or an adaption thereof and the address at which he intends to make such records;
  - (d) sufficient particulars to identify a record of the work or an adaption thereof made in or imported into Fiji in such circumstances that section 8 of the Act applies to the records which the manufacturer intends to make;
  - (e) the type or types of record on which it is intended to reproduce the work or adaption, and an estimate of the number of records of each type initially intended to be sold or otherwise supplied for the purpose of retail sale;
  - (f) the ordinary retail selling price (as hereinafter defined) of the records, or, where it is intended to reproduce the work on more than one type of record, the ordinary retail selling price of each type of record, the manufacturer intends to make and the amount of the royalty payable on each record;
  - (g) the earliest date at which any of the records will be delivered to a purchaser or otherwise supplied as aforesaid;
  - (h) whether any other musical, literary or dramatic work is to be reproduced on the same record with the work and, in relation to any such other work, the particulars specified in sub-paragraph (b).
- (2) The notice shall, not less than 15 days before any record on which the work is reproduced is delivered to a purchaser or otherwise supplied as aforesaid, be sent by registered post or published by advertisement as follows:—
- (a) if the name and an address within Fiji of the owner of the copyright, or his agent for the receipt of notice, are known or can by reasonable inquiry be ascertained, the notice shall be sent to such owner or agent at such address;
  - (b) if such name and address are not known and cannot by reasonable inquiry be ascertained, an advertisement shall be inserted in the Gazette giving the particulars specified in sub-paragraphs (a), (b), (c) and (d) of paragraph (1) and stating an address from which the particulars specified in paragraphs (e), (f), (g) and (h) may be obtained.

*Payment of royalties*

4.—(1) Royalties may be paid in such manner and at such times as are specified in any agreement which may be made between the manufacturer and the owner of the copyright.

(2) In the absence of any agreement to the contrary, the following provisions of this regulation shall apply to the manner in and time at which royalties shall be paid and the steps to be taken to ensure the receipt of royalties by the owner of the copyright.

(3) (a) If, within seven days of the date of the notice prescribed in regulation 3 the owner of the copyright intimates to the manufacturer, by notice in writing sent by registered post, some convenient place within Fiji from which adhesive labels can be obtained, the manufacturer shall by notice in writing specify the number and

denomination of the labels he requires and at the same time tender a sum equivalent to the amount of royalty represented by the labels required.

- (b) If, within 6 days of receipt of the notice required by sub-paragraph (a) to be given by the manufacturer, the copyright owner supplies the labels required, the manufacturer shall not deliver to a purchaser or otherwise supply for the purpose of its being sold by retail any record made by him to which the notice prescribed in regulation 3 refers unless there is attached thereto, or (if the type of record is such that it is not reasonably practicable to attach an adhesive label thereto) to the container in which it is intended to be delivered to a retail purchaser, a label supplied as aforesaid and representing the amount of the royalty payable in respect of that record.
- (4) (a) If the owner of the copyright does not take the steps specified in sub-paragraphs (a) and (b) of paragraph (3) within the times therein respectively specified, the manufacturer may deliver to a purchaser or otherwise supply as aforesaid any record to which the notice specified in regulation 3 refers without complying with the requirements of paragraph (3).
- (b) The manufacturer shall keep an account of all records delivered by him to a purchaser or otherwise supplied as aforesaid in accordance with this paragraph and the amount of the royalties due to the owner of the copyright in respect thereof shall be transferred to a special account and held in trust for the owner of the copyright.
- (5) If the manufacturer takes in relation to any records the steps specified in either of paragraphs (3) or (4), as the case may be, of this regulation, the taking of those steps shall be deemed to constitute the payment of royalties on those records in accordance with paragraph (d) of subsection (1) of section 8 of the Act.
- (6) For the purposes of this regulation "the date of the notice prescribed in regulation 3" means—
- (i) in cases where the notice is required to be sent by registered post the date when the notice would in ordinary course of post be delivered;
  - (ii) in cases where the notice is required to be advertised in the Gazette, the date of such advertisement.
- (7) The adhesive label supplied as aforesaid shall be an adhesive label, square in shape, the design to be entirely enclosed within a circle and the side of the label to be not greater than  $\frac{3}{4}$  inch in length. The label shall not contain the effigy of the Sovereign or any other person, nor any word, mark or design such as to suggest that the label is issued by or under the authority of the Government for the purpose of denoting any duty payable to the Government.

*Ordinary retail selling price*

5. The ordinary retail selling price of any record shall be calculated at the marked or catalogued selling price of single records to the public, or if there is no such marked or catalogued selling price, at the highest price at which single records are ordinarily to be sold to the public.

*Inquiries*

6.—(1) The inquiries referred to in subsection (7) of section 8 of the Act shall be directed to the owner of the copyright by name or (if his name is not known and cannot by reasonable inquiry be ascertained) in general terms as the owner of copyright in the work in respect of which the inquiries are made and shall contain—

- (a) a statement of the name of the musical, literary or dramatic work in respect of which the inquiries are made, a description sufficient to identify it and of the name of the author or publisher;
- (b) a statement of the name and address of the person making the inquiries;
- (c) an allegation that a record of the work or an adaptation thereof has previously been made in or imported into Fiji for the purposes of retail sale, with the trade name (if known) and a description of such record sufficient to identify it;
- (d) an inquiry whether the record so described was made in or imported into Fiji for the purposes of retail sale by or with the licence of the owner of the copyright.

(2) The inquiries shall be sent by registered post or published by advertisement as follows:—

- (a) if an address within Fiji of the owner of the copyright or his agent is known or can by reasonable inquiry be ascertained, the inquiries shall be sent to such address;
  - (b) if such an address is not known and cannot by reasonable inquiry be ascertained, the inquiries shall be advertised in the Gazette.
- (3) The prescribed time for reply to such inquiries shall be—
- (a) to an inquiry duly sent by registered post, seven days after the date when the inquiry would in ordinary course of post be delivered;
  - (b) to an inquiry duly advertised in the Gazette, seven days after the date of such advertisement.

SECTION 22—COPYRIGHT (CUSTOMS) REGULATIONS

*Regulations 11th May, 1961 [in force 1st June, 1961].*

*Made by the Comptroller of Customs and Excise and approved by the Governor in Council*

*Short title*

1. These Regulations may be cited as the Copyright (Customs) Regulations.

*Interpretation*

2. In these Regulations—  
“the Act” means the Copyright Act, 1956, as applied to Fiji by the Copyright (Fiji) Order, 1961, and  
“Comptroller” means the Comptroller of Customs and Excise.

*Form of notice*

3. The notice required by subsection (1) of section 22 of the Act shall be in the form No. 1 or form No. 2 set out in the Schedule to these Regulations. A separate notice on form No. 1 shall be given in respect of each work. A separate notice on form No. 2 shall be given in respect of each importation, whether of one or more works.

*Fee*

4. A fee of four dollars twenty cents in respect of each notice shall be paid to the Comptroller at the time such notice is given.

*Notice of change of ownership of copyright*

5. The owner of the copyright in any published literary, dramatic or musical work for which a notice has been given shall notify the Comptroller in writing of any change in ownership or other change affecting the notice, within twenty-eight days of such change and further notice shall be given as the Comptroller may require. On a change of ownership of copyright, whether notified to the Comptroller or not, any notice already given shall be deemed to have been withdrawn as from the expiry of twenty-eight days from the change of ownership.

*Production of evidence and information*

6. The owner of the copyright in any work, and any agent of his, who gives a notice shall either at the time of giving the notice or at the time when the work is imported, or at both such times, furnish to the Comptroller such evidence and information within such time and in such form as he may require, and shall produce within such time as he may specify such books or other documents as he may require. If such evidence and information is not furnished and if such books or other documents are not produced as required by the Comptroller, the notice shall be deemed to have been withdrawn as from such time as the Comptroller shall specify.

*Security*

7. The owner of the copyright in any work, and any agent of his, who gives notice, shall give to the Comptroller security or further security, within such time and in such manner, whether by bond, deposit of a sum of money or otherwise, as the Comptroller may require, against all actions, proceedings, claims and demands whatsoever which may be taken or made against, or costs and expenses which may be incurred by, him in consequence of the detention of any copy to which the notice relates. Such security or further security shall be given at the time the notice is given or at such other time as the Comptroller may require. If such security or further security is not given within the time or in the manner required by the Comptroller, the notice shall be deemed to have been withdrawn as from the expiry of the time so required.

8. In every case—

- (a) in which the Comptroller has not required the security or further security referred to in regulation 7 to be given, or
- (b) in which the Comptroller has taken security and that security is insufficient, or

(c) in which the notice is deemed to have been withdrawn under regulations 5, 6 or 7,  
the owner of the copyright in any work, and any agent of his, who has given a notice shall jointly and severally keep the Comptroller indemnified against all actions, proceedings, claims and demands whatsoever which may be taken or made against him, and shall repay to the Comptroller all costs and expenses which may be incurred by him in consequence of the detention of, or anything done in relation to, any copy of a work to which the notice relates. Any such costs, expenses, damages or other sums may be recovered as a debt due to the Crown.

SCHEDULE

FORM 1

COPYRIGHT ACT, 1956

NOTICE RELATING TO COPYRIGHT IN ANY  
PUBLISHED LITERARY, DRAMATIC OR  
MUSICAL WORK

To the Comptroller of Customs and Excise.

I, .....  
of .....  
hereby give you notice that copyright in the original  
work specified in the Schedule now subsists under  
the  
Copyright Act, 1956, and that (1) .....  
the owner of the copyright in the said work and that  
(2) .....  
request(s) that copies of the said work printed out of  
Fiji shall be treated as prohibited goods, and shall  
not be imported into Fiji for a period up to and  
including  
(3) .....

Dated this ..... day of ....., 19.....

Signature .....

(4) .....

SCHEDULE

Title of work .....  
Description of work, if not a book .....  
Full name of author or authors (5) .....  
Whether author or authors alive. If not, date of  
death (6) .....

(1) If notice is given by the owner insert "I am", or if a company, the name of the company and the word "is"; if given by an agent insert name of owner and the word "is".

(2) "I", or "he"; or if a company the name of the company.

(3) The period shall not exceed five years and shall not extend beyond the period for which the copyright is to subsist.

(4) If an agent insert "agent of owner", or if a company insert the name of the company and status in the company of the signatory.

(5) If the author is anonymous or pseudonymous, insert words to this effect and state for what period the copyright exists.

(6) Delete if author anonymous or pseudonymous.



Country and date of first publication (7) .....
Status of author at date of first publication (8) .....

STATUTORY DECLARATION

I, ..... of ..... do solemnly and sincerely declare that the contents of this notice are true, and I make this solemn declaration conscientiously believing the same to be true and by virtue of the provisions of the Statutory Declarations Act. Declared by the above-named ..... at ..... this ..... day of ....., 19....., before me .....

A Commissioner for Oaths.

(7) If copyright is claimed by virtue of section (2) (a) of the Copyright Act, 1956, it is enough to state the country and date of first publication (see section 49 (2) (d) of the Act for the meaning of "first publication" for this purpose).

(8) If copyright is claimed by virtue of section 2 (2) (b) or 2 (2) (c) of the Copyright Act, 1956, state the grounds on which it is claimed that the author was a qualified person either (a) when the work was first published, or (b) if he died before the date of first publication, immediately before he died.

("Qualified person" is defined in section 1 (5) of the Act.)

FORM 2

COPYRIGHT ACT, 1956

NOTICE RELATING TO A PARTICULAR IMPORTATION

To the Comptroller of Customs and Excise.

I, ..... of ..... hereby give you notice that copyright in the original work(s) specified in the Schedule now subsists under the ..... Copyright Act, 1956, and that (1) ..... the owner(s) of the copyright in the said work(s) and that the undermentioned copies of the said work(s) made out of Fiji, that is to say (2) ..... are about to be imported into the port/airport (3) or (4) ..... on or about the ..... day of ..... next in the (5) ..... from .....

And I request that the said copies be treated as prohibited goods and dealt with accordingly.

Dated this ..... day of ....., 19.....

Signature ..... (6) .....

(1) If notice is given by the owner insert "I am"; if given by a company insert name of the company and the word "is", if given by an agent insert name of owner and the word "is".

(2) Describe the copies, number of packages, marks used, and any other particulars necessary for their identification.

(3) Delete that which is inapplicable.

(4) Insert name of port or airport.

(5) Insert name or indication of ship or aircraft.

(6) If an agent insert "agent of owner(s)". If a company insert the name of the company and status in the company of the signatory.

SCHEDULE

Title of work(s) .....  
Description of work(s), if not a book .....  
Full name of author or authors (7) .....  
Whether author or authors alive. If not, date of  
death (8).....  
Country and date of first publication of work(s)  
(9) .....  
Status of author or authors at date of first  
publication (10).....

STATUTORY DECLARATION

I, .....  
of .....  
do solemnly and sincerely declare that the contents  
of this notice are true, and I make this solemn  
declaration conscientiously believing the same to be  
true and by virtue of the provisions of the Statutory  
Declarations Act.  
Declared by the above-named .....  
at .....  
this ..... day of ....., 19.....,  
before me .....

A Commissioner for Oaths.

(7) If the author(s) is/are  
anonymous or pseudonymous,  
insert words to this effect and  
state for what period the  
copyright exists.

(8) Delete if author(s)  
anonymous or pseudonymous.

(9) If copyright is claimed  
by virtue of section 2 (2) (a) of  
the Copyright Act, 1956, it is  
enough to state the country  
and date of first publication  
(see section 49 (2) (d) of the  
Act for the meaning of "first  
publication" for this purpose).

(10) If copyright is claimed  
by virtue of section 2 (2) (b) or  
2 (2) (c) of the Copyright Act,  
1956, state the grounds on  
which it is claimed that the  
author was a qualified person  
either (a) when the work was  
first published, or (b) if he died  
before the date of first publica-  
tion, immediately before he  
died.

("Qualified person" is  
defined in section 1 (5) of the  
Act.)